

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MMCA GROUP, LTD.,

Plaintiff,

v.

HEWLETT-PACKARD COMPANY, et al.,

Defendants

No. C-06-7067 MMC

**ORDER GRANTING MOTION TO
DISMISS DEFENDANT PINKERTON
CONSULTING & INVESTIGATIONS,
INC.**

Before the Court is defendant Pinkerton Consulting & Investigations, Inc.'s ("PC&I") motion to dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure or, in the alternative, motion to sever pursuant to Rule 21, filed April 11, 2008. Plaintiff has filed opposition to the motion, to which PC&I has replied.

Having read and considered the papers filed in support of and in opposition to the motion, the Court finds the matter appropriate for resolution without oral argument, see Civil L.R. 7-1(b) and, for the reasons set forth by PC&I, will grant the motion to dismiss.

The Court next considers whether such dismissal should be with leave to amend. The Court has granted plaintiff leave to amend, over defendants' objection, on two prior occasions. Although plaintiff, in its opposition to the instant motion, again requests leave to amend, plaintiff does not identify any additional facts it could include with respect to its

1 claims against PC&I. Rather, plaintiff seeks permission to continue to conduct discovery in
2 an effort to obtain evidence in support of those claims, if such evidence exists. (See Opp'n
3 at 2:13-14.) Under such circumstances, further leave to amend at this time would be futile,
4 and, consequently, plaintiff's request for leave to amend will be denied. See, e.g.,
5 Deveraturda v. Globe Aviation Security Services, 454 F.3d 1043, 1049-50 (9th Cir. 2006)
6 (holding leave to amend properly denied where amendment would be futile).

7 **CONCLUSION**

8 For the reasons set forth above, PC&I's motion to dismiss is hereby GRANTED, and
9 all claims asserted against defendant PC&I are hereby DISMISSED.

10 **IT IS SO ORDERED.**

11 Dated: May 29, 2008

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13 MAKINE M. CHESNEY
14 United States District Judge
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